

SECOND REGULAR SESSION

# SENATE BILL NO. 1171

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BRAY.

Read 1st time March 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5472S.011

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## AN ACT

To repeal section 523.055, RSMo, and to enact in lieu thereof three new sections relating to eminent domain.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 523.055, RSMo, is repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 523.055, 523.083, and 523.085,  
3 to read as follows:

523.055. In any action to condemn lands under the power of eminent  
2 domain, where the condemnor has paid into the office of the clerk of the circuit  
3 court the amount of damages assessed by commissioners pursuant to law, the  
4 circuit clerk shall give the owners or those in possession written notice of such  
5 fact within five days. If the owners or those in possession do not deliver  
6 possession of the property condemned within ten days after the receipt of notice  
7 of the payment of the award, then on the request of the condemnor the court shall  
8 issue a writ of possession directing the sheriff to deliver the possession of such  
9 property to the condemnor forthwith; except that the court may upon the motion  
10 of said owners grant them such extension of time, not to exceed ninety days **from**  
11 **the date the court rules on said motion absent exigent circumstances,**  
12 as the court finds to be reasonable under all the circumstances. The writ of  
13 possession shall be executed in the manner provided by law for the execution of  
14 writs of possession in ejectment suits for the recovery of land. If a writ of  
15 possession is issued or a motion filed asking for an extension by said owners, then  
16 all costs accrued in executing the writ and in the hearing of the motion may be  
17 assessed against the said owners.

523.083. Notwithstanding any other provision of law to the  
2 contrary, any condemning entity shall be prohibited from using the

3 power of eminent domain to take private property when the end use is  
4 private for-profit use or when condemnation shall result in the  
5 immediate or prompt transfer of such property to a private entity to be  
6 used for profit.

523.085. When determining the assessment of damages to a  
2 property owner, as provided for under section 523.040, the  
3 commissioners may consider market alternatives or replacement costs,  
4 including but not limited to:

5 (1) Actual reasonable relocation expenses of the owner, including  
6 the actual reasonable relocation expenses of the owner's family if they  
7 reside on the property or the actual reasonable relocation expenses of  
8 the owner's business or farm operation if located on the property;

9 (2) The expense of replicating the use or function of the owner's  
10 personal property located on such real property that cannot be  
11 relocated;

12 (3) The amount of direct losses of tangible personal property  
13 incurred by the owner as a result of relocating or discontinuing the  
14 owner's business or farm operation, but not to exceed an amount equal  
15 to the reasonable relocation expenses;

16 (4) Actual reasonable expenses incurred by the owner in  
17 searching for a replacement business or farm operation;

18 (5) Actual reasonable expenses of the owner that were necessary  
19 for the owner to reestablish his or her displaced farm operation,  
20 nonprofit organization, or business at another location; and

21 (6) Reasonable attorney's fees, expert fees, and appraisal fees.  
22 Notwithstanding any other provision of law to the contrary, the  
23 commissioners, the court, or a jury may utilize the income approach  
24 when determining the assessed damages to a property owner for a  
25 partial taking. The commissioners, the court, or a jury may consider  
26 the overall potential financial gain that a condemning entity may  
27 receive when condemning multiple pieces of property to be used for  
28 one purpose or project when assessing the damages to each property  
29 owner whose property is intended to be used as part of such purpose  
30 or project.